IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.5409 OF 2005

1. Shri. Subhash Atmaram Mhatre
2. Shri. Ramesh Mahadeo Mhatre
3. Shri. Sandesh Shivaram Thakur
4. Shri. Pundlik Maya Patil
5. Shri. Baliram Hari Patil
6. Shri. Vasant Motiram Mhatre
7. Shri. Vasant Tulsidas Mhatre ...Applicants

Vs.

The State of Maharashtra ...Respondent

Shri. R.R.Salvi for the Applicants.
Shri. A.S.Gadkari, A.P.P. for the Respondent.

CORAM : A. S. OKA, J.
DATE : AUGUST 30, 2005.

P.C.:

1. Heard the advocate appearing for the Applicants and the learned A.P.P. for the State. This is an Application for Anticipatory Bail. The learned Advocate appearing for the Applicants placed reliance on order dated 10th August, 2005 passed by this Court in Criminal Application No.4756 of 2005. By said order co-accused were granted Anticipatory Bail by this Court. He also invited my attention to another order dated 10th August, 2005 passed by this Court in Criminal Application No.4895 of 2005. By the said order, the eleven co-accused were ordered to be enalrged on bail. He submitted that none of the witnesses have ascribed any specific role to the Applicants as regards the assault or commission of offence of robbery.

2. The learned A.P.P. submitted that order of Anticipatory Bail was passed in favour of the certain co-accused specifically on the ground that the Applicants in the Criminal Application No.4765 of 2005 were women. He pointed that the other co-accused have been granted Regular Bail after they were arrested. He, therefore, submitted that the Applicants are not entitled to any relief.

3. I have considered the submissions. Perusal of the statements of the witnesses show that only specific allegation of possessing a weapon has been made against the Applicant No.1 Subhash. The witnesses have stated that the said Subhash was holding an axe. However, it is not in dispute that none of the witnesses have stated that the said Applicant assaulted anybody by using the weapon or that the weapon was used for terrorising any person. So far as other Applicants are concerned, no specific role has been ascribed to them. It is true that the Applicants in Criminal Application No.4765 of 2005 were women. However, while granting Anticipatory Bail, this Court has observed that the incident has taken place as a result of a fight between the two groups. The specific allegation against the Applicants in the said Application was that they had taken part in pelting stones. Though it is well

settled that considerations for grant of pre-arrest bail are totally different from the considerations for grant of Regular Bail, it will be necessary to refer to the observations made by this Court in Criminal Application No.4895 of 2005. This court has observed that except for injury on the person of one Namubai, the injuries on the persons of all witnesses are in nature of simple injuries. This court has also observed that when there is a fight between the two groups, there is a tendency to implicate large number of persons.

4. Considering the fact that hardly any role is ascribed to the Applicants and considering the peculiar facts of the case, the Applicants are entitled to the relief of Anticipatory Bail. Hence, I pass the following order:

: O R D E R :

i) In the event of arrest of the Applicants in in connection with **C.R.No.74 of 2005 of** registered with **Pen Police Station, District Raigad, Alibag** the Applicants shall be enlarged on bail subject to furnishing a P.R. Bond in the sum of **Rs.5,000/- (Rupees Five Thousand) each** with one surety in the like amount.

ii) The Bail is granted subject to condition that the Applicants will attend the concerned Police Station as and when called upon to do so till filing of the chargesheet and will co-operate for the purposes of investigation.

iii) The Bail is granted subject to condition that the Applicants shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with the prosecution evidence.

iv) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

v) This order will enure to the benefit of the Applicants only till chargesheet is filed. Thereafter, they will be free to apply to the appropriate Court for appropriate relief.

vi) Application is disposed of in above terms.

vii) The parties to act upon an authenticated copy of this order.

JUDGE